

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of CONSUMERS)	
ENERGY COMPANY for authority to increase its)	
rates for the generation and distribution of)	Case No. U-17990
electricity and for other relief.)	
_____)	

At the April 28, 2017 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Sally A. Talberg, Chairman
Hon. Norman J. Saari, Commissioner
Hon. Rachael A. Eubanks, Commissioner

ORDER

On March 1, 2016, Consumers Energy Company (Consumers) filed an application seeking authority to increase rates by \$225 million on an annual basis for the generation and distribution of electricity, and for other regulatory approvals.

A prehearing conference was held before Administrative Law Judge Dennis W. Mack (ALJ) on April 12, 2016. At the prehearing conference, the ALJ granted petitions to intervene filed by, among others, Michelle Rison and the Residential Customer Group (together, the RCG). The Commission Staff (Staff) also participated.

On February 28, 2017, the Commission issued an order authorizing Consumers to increase its retail electric rates in the annual amount of \$113,277,000, on a jurisdictional basis, and granting other relief (February 28 order).

On March 30, 2017, the RCG filed a petition for rehearing of the February 28 order pursuant to Mich Admin Code, R 792.10437 (Rule 437) and MCL 460.351. On April 20, 2017, the Staff and Consumers filed responses in opposition to the petition for rehearing.

First, the RCG contends that the Commission erred in granting Consumers' request to prospectively record a one-time adjustment to deferred city income tax liabilities of approximately \$14 million, to recognize an associated regulatory asset, and to amortize that amount over a 20-year period. 5 Tr 743-747; February 28 order, pp. 119-121. The RCG raises the same objections that it made during the proceeding. The RCG contends that the Commission decision fails to recognize that Consumers is double-recovering this tax expense because this expense has already been collected (along with federal and state tax expense) in previous rate cases through the tax factor utilized in the standard ratemaking formula applied in those cases. The RCG characterizes the Commission's decision as single-issue ratemaking and retroactive ratemaking.

Second, the RCG contends that the Commission has no legal basis for setting an advanced metering infrastructure opt-out tariff because the proceedings in Case Nos. U-17000 and U-17053 were not contested cases, the Staff's report filed in Case No. U-17000 was "cobbled together from internet sources," and the Court of Appeals cases discussed by the Commission are unpublished. Petition for rehearing, p. 7.

In response, among other arguments, Consumers and the Staff both contend that the RCG's request for rehearing should be denied on grounds that it does not meet the standards imposed by Rule 437.

Rule 437 provides that a petition for rehearing may be based on claims of error, newly discovered evidence, facts or circumstances arising after the hearing, or unintended consequences resulting from compliance with the order. A petition for rehearing is not merely another

opportunity for a party to argue a position or to express disagreement with the Commission's decision. Unless a party can show the decision to be incorrect or improper because of errors, newly discovered evidence, or unintended consequences of the decision, the Commission will not grant a rehearing.

The RCG makes no attempt to argue that the February 28 order contains a factual or legal error; or that newly discovered evidence, facts or circumstances arising after the hearing, or unintended consequences resulting from compliance with the order require a grant of rehearing. The RCG repeats the arguments that it made in its briefs and exceptions, which were considered and rejected by the Commission. After noting the RCG's arguments concerning double-recovery and retroactive ratemaking, the Commission found that the proposed deferred accounting treatment of past tax expense coupled with amortization of the deferred amount is appropriate in this case and does not constitute retroactive ratemaking. February 28 order, pp. 119-121. Likewise, the RCG's objections to the opt-out tariff findings are identical to the arguments it made during the proceeding, which were considered by the Commission and rejected. February 28 order, pp. 150-158. *See also*, April 13, 2017 order in Case No. U-18014, pp. 4-6. Simple re-argument of a position does not compel rehearing under Rule 437 or MCL 460.351.

THEREFORE, IT IS ORDERED that the Residential Customer Group's petition for rehearing is denied.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so by the filing of a claim of appeal in the Michigan Court of Appeals within 30 days of the issuance of this order, under MCL 462.26. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel. Electronic notifications should be sent to the Executive Secretary at mpscdockets@michigan.gov and to the Michigan Department of the Attorney General - Public Service Division at pungpl@michigan.gov. In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

Sally A. Talberg, Chairman

Norman J. Saari, Commissioner

Rachael A. Eubanks, Commissioner

By its action of April 28, 2017.

Kavita Kale, Executive Secretary